



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2015-0835]

RIN 1625-AA00

Safety Zone; Dredging, Rouge River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Rouge River in the vicinity of Detroit, MI. This zone is intended to restrict and control movement of vessels in a portion of the Rouge River. This zone is necessary to protect vessels from potential hazards associated with dredging operations.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 11:59 p.m. on September 24, 2015. For the purposes of enforcement, actual notice will be used from 10 a.m. on

August 25, 2015, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type USCG-2015-0835 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Chief Petty Officer Jason Hampton, Prevention Department, Sector Detroit, Coast Guard; telephone 313-568-9616, e-mail Jason.E.Hampton@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
DHS	Department of Homeland Security
NAD 83	North American Datum of 1983

II. Background Information and Regulatory History

On August 23, a 300-yard section of retaining wall along the Carmeuse facility in River Rouge, MI collapsed, allowing an unknown amount of surface materials, including rock and soil to spill into the Rouge River. This material has created a hazard to navigation, by causing uncertain shifts in the channel depth, and creating a possible choke point in the river. The Army Corps of Engineer has conducted initial surveys and determined that dredging will be required to mitigate these hazards to vessel traffic.

III. Legal Authority and need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231, 33 CFR 1.05-1 and 160.5; and Department of Homeland Security Delegation No. 0170.1. The Captain of the Port Detroit (COTP) has determined that the spilled surface materials and dredging operations on the Rouge River pose a significant risk to public safety and property. Such hazards include potential collisions and groundings.

IV. Discussion of Rule

This rule establishes a safety zone from 10 a.m. on

August 25, 2015 until 11:59 p.m. on September 24, 2015. The safety zone will encompass all waters of the Rouge River, Detroit, MI from the West Jefferson Avenue Bridge at N42°16.85', W083°07.72', proceeding East approximately 400-yards to a point mid-river at N42°16.80', W083°07.47'.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP or a designated representative. Vessel operators must contact the COTP or his on-scene representative to obtain permission to transit through this safety zone.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget

has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the COTP or his on-scene representative.

B. Impact on Small Entities

As per the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, we have considered the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Rouge River near Detroit, MI from 10 a.m. August 25, 2015 until 11:59 p.m. September 24, 2015.

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the Regulatory Planning and Review section. Additionally, before the enforcement of the zone, the COTP would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to

comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against entities that question or complain about this rule or any policy or action of the Coast Guard.

D. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and determined that this rule does not have implications for federalism.

F. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of

people, places, or vessels.

G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

H. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

I. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

J. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

K. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

L. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

M. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

N. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and is therefore categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be prepared and submitted after publication, and will be available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting
and recordkeeping requirements, Security measures,
Waterways.

For the reasons discussed in the preamble, the Coast
Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS
AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0835 to read as follows:

§ 165.T09-0835 Safety Zone; Dredging, Rouge River, Detroit, MI.

(a) Location. The following area is a temporary safety zone: All U.S. waters of the Rouge River, Detroit, MI from the West Jefferson Avenue Bridge at N42°16.85', W083°07.72', proceeding East approximately 400-yards to a point mid-river at N42°16.80', W083°07.47'.

(b) Enforcement period. This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 11:59 p.m. on September 24, 2015. For the purposes of enforcement, actual notice will be used from 10 a.m. on August 25, 2015, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(c) Regulations. (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit (COTP), via Sector Detroit Command Center or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP, via the Command Center or his on-scene representative.

(3) The "on-scene representative" of the COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the COTP to act on his behalf.

(4) Vessel operators must contact the COTP via the Command Center to obtain permission to enter or operate within the safety zone. The COTP may be contacted via VHF Channel 16 or at 313-568-9560. Vessel operators given

permission to enter or operate in the safety zone must comply with all directions given to them by the COTP, via the Sector Command Center or his on-scene representative.

Dated: August 25, 2015

Raymond Negron,
Commander, U.S. Coast Guard,
Acting Captain of the Port Detroit.

[FR Doc. 2015-24041 Filed: 9/21/2015 08:45 am; Publication Date: 9/22/2015]